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# Selected Statutes Addressing Energy Related Emergencies

The following are selected statutes expressly addressing issues related to energy security. Section 63-34-101 addresses the responsibilities of the Utah Energy Office related to creating a state energy emergency plan. Title 63, Chapter 53a, Energy Emergency Powers of Governor, addresses the powers of the Governor in cases of an energy emergency. Under the Governor's emergency statutes "energy resources" includes electricity, natural gas, gasoline and middle distillates, coal, wood fuels, geothermal sources, radioactive materials, and any other resource yielding energy.

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## **63-34-101. Utah Energy Office created -- Utah Energy Office duties.**

- (1) There is created within the department the Utah Energy Office.
  - (2) The Utah Energy Office shall:
    - (a) by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, seek federal grants, loans, or participation in federal programs, and, in accordance with applicable federal program guidelines, administer federally funded state programs regarding:
      - (i) renewable energy;
      - (ii) energy efficiency; and
      - (iii) energy conservation;
    - (b) coordinate and facilitate the development and implementation of programs:
      - (i) for state buildings; and
      - (ii) relating to:
        - (A) procurement of energy;
        - (B) consumption of energy;
        - (C) conservation of energy; and
        - (D) efficient use of energy;
- (c) if requested by the governor, prepare a state energy emergency plan in accordance with Title 63, Chapter 53a, Energy Emergency Powers of Governor;
- (d) participate in regulatory proceedings as appropriate to promote the development, conservation, and efficient use of energy;
  - (e) coordinate state governmental functions regarding energy development and use;
  - (f) facilitate the development and implementation of policies and programs in the state related to:
    - (i) energy production;
    - (ii) processing of energy;
    - (iii) use of energy; and
    - (iv) energy related technology;
  - (g) monitor federal laws and regulations related to:
    - (i) energy development;
    - (ii) processing of energy; or
    - (iii) use of energy;
  - (h) recommend state policy positions regarding energy to:
    - (i) the governor; or
    - (ii) the Legislature;
  - (i) represent the state on regional and national energy matters:
    - (i) at the initiative of the office; or
    - (ii) as requested by the governor;
  - (j) coordinate and consolidate energy resource data collection throughout state government;
  - (k) provide the Legislature and the governor with:
    - (i) an annual report addressing the current status of energy markets in the state; and
    - (ii) an independent assessment of energy issues; and
  - (l) perform forecasts of state-level:
    - (i) energy production;
    - (ii) energy consumption; and
    - (iii) energy prices.

## **Title 63 Chapter 53a -- Energy Emergency Powers of Governor**

### **63-53a-1 "Energy resources" defined.**

As used in this act, "energy resources" includes electricity, natural gas, gasoline and middle distillates, coal, wood fuels, geothermal sources, radioactive materials, and any other resource yielding energy.

*Enacted by Chapter 23, 1980 General Session*

### **63-53a-2 Legislative findings and purpose.**

(1) The Legislature finds that the lack of energy resources and other energy resource emergencies may threaten the availability of essential services and transportation and the operation of the economy, jeopardizing the peace, health, safety, and welfare of the people of this state.

(2) The Legislature further finds that it is necessary to provide an orderly procedure for anticipating and responding to energy resource shortages and disruptions and to grant, under conditions prescribed in this act, emergency powers to the governor to order involuntary curtailments in the use of energy resources.

(3) The Legislature further finds and declares that it is the policy of this state to assist the United States in effective management and control of such factors and situations as contribute to an emergency affecting or likely to affect this state; to cooperate with other states in matters related to an emergency affecting or likely to affect this state; to meet extraordinary conditions in this state arising out of the crisis by taking such steps as are necessary and appropriate; and generally to protect the peace, health, safety, and welfare of the people of this state.

*Enacted by Chapter 23, 1980 General Session*

### **63-53a-3. Information-gathering powers -- Subpoena power -- Coordination with other regulatory authorities.**

(1) On a continuing basis the governor may obtain all necessary information from energy resource producers, manufacturers, suppliers, and consumers doing business within, and from political subdivisions in, this state as necessary to determine whether shortages or an emergency will require energy resource conservation measures. This information may include, but shall not be limited to:

- (a) sales volumes;
- (b) forecasts of energy resource requirements;
- (c) from manufacturers, suppliers, and consumers, an inventory of energy resources; and
- (d) local distribution patterns of the information described in Subsections (1)(a), (1)(b), and (1)(c).

(2) In obtaining information at any time from energy resource producers, manufacturers, suppliers, or consumers under Subsection (1)(c) and in obtaining any other information under Subsection (1) during a state of emergency proclaimed, the governor may subpoena witnesses, material and relevant books, papers, accounts, records, and memoranda, administer oaths, and cause the depositions of persons residing within or without the state to be taken in the manner prescribed for depositions in civil actions in district courts, to obtain information relevant to energy resources that are the subject of the proclaimed emergency.

(3) In obtaining information under this section the governor shall:

- (a) seek to avoid eliciting information already furnished by a person or political subdivision in this state to a federal, state, or local regulatory authority that is available for his study; and
- (b) cause reporting procedures, including forms, to conform to existing requirements of federal, state, and local regulatory authorities wherever possible.

*Enacted by Chapter 23, 1980 General Session*

### **63-53a-4. Confidential nature of information preserved -- Relief from subpoena -- Unauthorized disclosure as misdemeanor -- Removal from office.**

(1) Information furnished pursuant to Section 63-53a-3 and designated by that person as confidential shall be maintained as confidential by the governor and any person who obtains information which he knows to be confidential under this act. The governor shall not make known in any manner any particulars of such information to persons other than those specified in

Subsection (4). No subpoena or judicial order may be issued compelling the governor or any other person to divulge or make known such confidential information, except when relevant to a prosecution for violation of Subsection (5).

(2) Nothing in this section shall prohibit the use of confidential information to prepare statistics or other general data for publication, so presented as to prevent identification of particular persons.

(3) Any person who is served with a subpoena to give testimony orally or in writing, or to produce books, papers, correspondence, memoranda, agreements, or other documents or records pursuant to this act may apply to any district court of this state for protection against abuse or hardship in the manner provided by law.

(4) References to the governor in this section include the governor and any other individuals designated for this purpose in writing by the governor.

(5) Any person who wilfully discloses confidential information in violation of this section is guilty of a class A misdemeanor and, in addition, may be subject to removal from office or immediate dismissal from public employment.

*Enacted by Chapter 23, 1980 General Session*

**63-53a-5. Curtailment of energy use -- Standby priorities -- Restriction on involuntary curtailment.**

In consultation with appropriate federal and state officials and officials of political subdivisions in this state, the governor shall cause to be established, and revised as appropriate, standby priorities for curtailment in the use of energy resources. Involuntary curtailments, however, may be ordered only by means of executive orders issued pursuant to this act.

*Enacted by Chapter 23, 1980 General Session*

**63-53a-6. Proclamation of emergency -- Effective period -- Requirement of legislative approval.**

(1) The governor may, with the consent of the Legislature, or when not in session the advice of the Legislative Management Committee, and when he determines that an existing or imminent severe disruption or impending shortage in the supply of one or more energy resources, in this state or elsewhere, threatens the availability of essential services, transportation, or the operation of the economy, jeopardizing the peace, health, safety, and welfare of the people of this state, issue a proclamation declaring that a state of emergency exists with regard to these resources, which shall also state with specificity the nature of the disruption or shortage in an energy resource.

(2) A proclamation issued under this section, and any order or rule issued as a result thereof, shall continue in effect until 60 days from the date of the proclamation of the emergency unless the governor rescinds it and declares the emergency ended prior to the expiration of this 60-day period. A proclamation issued within 30 days of the expiration of a prior proclamation for the same emergency shall be considered a renewal or extension.

(3) A proclamation may be renewed or extended only by joint resolution of the Legislature.

*Enacted by Chapter 23, 1980 General Session*

**63-53a-7. Curtailment, adjustment and allocation of energy use by executive orders -- Limitations and considerations in issuance and application.**

(1) Upon issuance of a proclamation pursuant to Section 63-53a-6, the governor in addition may by executive order:

(a) require reduction in energy resource usage and the application of conservation, prevention of waste, and the salvaging of energy resources and the materials, services, and facilities derived therefrom or dependent thereon, by state agencies and political subdivisions in this state;

(b) direct the establishment by state agencies and political subdivisions in this state of programs necessary to implement and comply with federal energy conservation programs where these programs have not theretofore been so established, including, but not limited to, allocation or rationing of energy resources and the distribution of the state's discretionary allotments;

(c) require involuntary curtailments, adjustments, or allocations in the supply and consumption of energy resources applicable to all suppliers and consumers including, but not limited to,

specification of the times and manner in which these resources are supplied or consumed; or (d) prescribe and direct activities promoting the conservation, prevention of waste, and salvage of energy resources and the materials, services, and facilities derived therefrom or dependent thereon, including, but not limited to, the modification of transportation routes and schedules, or the suspension of weight limits or other restrictions from the transportation of energy resources, to the extent permissible under federal law and regulations.

(2) Any restrictions, curtailments, adjustments, or allocations pursuant to Subsection (1) shall:

(a) be ordered and continue only so long as demonstrably necessary for the maintenance of essential services or transportation, or the continued operation of the economy but no longer than the duration of the proclamation;

(b) be applied as uniformly as practicable within each class of suppliers and consumers and without discrimination within a class; and

(c) give due consideration to the needs of commercial, retail, professional, and service establishments whose normal function is to supply goods or services or both of an essential nature, including, but not limited to, food, lodging, fuel, or medical care facilities during times of the day other than conventional daytime working hours.

*Enacted by Chapter 23, 1980 General Session*

**63-53a-8. Existing agencies to be used in implementation.**

The governor shall use, to the extent practicable, existing state boards, commissions, or agencies or officers or employees for the purpose of carrying out the provisions of this act.

*Enacted by Chapter 23, 1980 General Session*

**63-53a-9. Enforcement of orders and rules.**

The governor may apply to any district court for appropriate equitable relief against any person violating or failing to carry out the provisions of this act or any order or rule issued pursuant to this act.

*Enacted by Chapter 23, 1980 General Session*

**63-53a-10. Other emergency powers of governor unaffected.**

The powers vested in the governor under this act shall be in addition to, and not in lieu of, any other emergency powers otherwise constitutionally or statutorily vested in the governor.

*Enacted by Chapter 23, 1980 General Session*

**63-53a-11. Rules and regulations -- Approval by Legislature.**

The board, commission, or agency designated by the governor for carrying out the provisions of this act is authorized to promulgate such rules and regulations as are necessary for effective administration of this act with approval of the Legislature.

*Enacted by Chapter 23, 1980 General Session*